

ENTERED

April 04, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

JOHN W. HARRINGTON,

Plaintiff,

v.

OFFICER LAWRENCE ROBLES,

Defendant.

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Civil Action No. 6:20-CV-00039

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the December 21, 2022, Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Jason B. Libby. (Dkt. No. 66). Magistrate Judge Libby made findings and conclusions and recommended that Defendant’s Motion to Dismiss be denied. (*Id.*).

The Parties were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). On January 4, 2023, Defendant filed three objections. (Dkt. No. 67). First, Defendant argues that Plaintiff did not provide factual support in his Complaint for the allegation that Defendant directly tainted the grand jury’s indictment of Plaintiff. (*Id.* at 5–8). Second, Defendant argues that Plaintiff did not provide factual support in his Complaint for the allegation that Defendant submitted false or fabricated information in an affidavit to obtain an arrest warrant for Plaintiff. (*Id.* at 8–10). And third, Defendant argues that Plaintiff has not carried his burden to overcome Defendant’s assertion of qualified immunity. (*Id.* at 10–11).


In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that:

- (1) Magistrate Judge Libby’s M&R, (Dkt. No. 66), is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and
- (2) Defendant’s Motion to Dismiss, (Dkt. No. 59), is **DENIED**.

It is SO ORDERED.

Signed on April 4, 2023.


DREW B. TIPTON
UNITED STATES DISTRICT JUDGE